

**REMARKS**

Claim 1 has been amended to incorporate the subject matter of Claim 2. Claim 2 has been canceled. Claim 6 has been amended to correct punctuation. Thus, no new matter has been added, and entry of the Amendment is respectfully requested. Claims 1-16 are pending.

**Response to Claim Rejections under 35 U.S.C. § 103(a)**

Claims 1 to 16 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over JP 2001-164002 to Kiyoshi in view of JP 2002-241608 to Kikuchi et al. Applicants respectfully traverse.

The oxygen absorbing functional component of the present invention is finely dispersed to increase the whole surface area to improve the oxygen absorbing property and gas-barrier property from when the content is first filled. Kiyoshi and Kikuchi fail to disclose or suggest such a structure.

Kiyoshi discloses a gas barrier resin. However, Kiyoshi does not at all disclose or suggest an oxygen absorbing functional component as recited in present Claim 1. Further, according to the dispersion structure disclosed in Kiyoshi, dispersion phases in the shape of slender layers 1 to 50  $\mu\text{m}$  wide and 50 to 1000  $\mu\text{m}$  long are present in a continuous phase. Thus, if an average particle size is found from the smallest diameter and the largest diameter, as described in the present specification, even the smallest dispersion phase, being 1  $\mu\text{m}$  wide and 50  $\mu\text{m}$  long, has an average particle size of 25.5  $\mu\text{m}$ . Accordingly, the structure of Kiyoshi is distinctly different from the islands-in-the-sea structure of the present invention, wherein the average particle size is smaller than 3.5  $\mu\text{m}$ .

In fact, as seen from the Working Examples and Comparative Examples of Kiyoshi, the claimed dispersion structure of Kiyoshi is distinguished from a sea island structure. That is, a

resin sheet in which the PET and MXD6 are blended at a ratio of 70:30 and formed into a sea island structure is disclosed in Comparative Example 1, which further discloses an inferior oxygen-barrier property.<sup>1</sup> Specifically, Comparative Example 1 of Kiyoshi discloses a sea island structure resembling that of the present invention. However, the island portions of the present invention have an average particle size of smaller than 3.5  $\mu\text{m}$ , and a ratio, N/M, (the whole surface area (N) of the island portions to the volume (M) of the packing container) of not smaller than 20. Kiyoshi fails to disclose or suggest the presently claimed average particle size and the ratio N/M.

In addition, Kikuchi fails to disclose or suggest blending the thermoplastic resin and the oxygen absorbing resin composition together. Thus, even if Kiyoshi and Kikuchi were combined, the islands-in-the-sea structure of the present invention would not be obtained.

With regard to the preparation method, the present invention adjusts not only the composition, such as blending ratio, but also the melt viscosity in order to form the above-mentioned islands-in-the-sea structure. *See*, page 9, line 39 to page 10, line 14. Thus, a person of ordinary skill in the art would not be motivated to modify Kiyoshi's dispersion structure having an inferior oxygen-barrier, with the resin composition of Kikuchi. Accordingly, Kiyoshi and Kikuchi fail to render obvious the present claims. Withdrawal of the rejection is respectfully requested.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

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<sup>1</sup> Kiyoshi discloses at paragraph [0034] that “[o]n the other hand, when a disperse phase does not distribute in layers but sea island structure is formed for example, of there being little content of the aromatic polyamide which forms a disperse phase etc., oxygen gas etc. pass and it is inferior to gas barrier property.”

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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